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United Nations

Report of the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996

Sixteenth session
(8 to 12 April 2013)

General Assembly
Official Records
Sixty-eighth Session
Supplement No. 37

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United Nations • New York, 2013

Note

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I. Introduction

1. The sixteenth session of the Ad Hoc Committee established by the General Assembly in its resolution 51/210 of 17 December 1996 was convened in accordance with paragraph 26 of Assembly resolution 67/99. The Committee met at Headquarters from 8 to 12 April 2013.

2. In accordance with paragraph 9 of General Assembly resolution 51/210, the Ad Hoc Committee was open to all States Members of the United Nations or members of the specialized agencies or of the International Atomic Energy Agency.

3. At its 49th meeting, on 8 April 2013, the Committee decided, on the basis of past practice, that the members of the Bureau of the Committee at the previous session, to the extent of their availability, would continue to serve in their respective capacities. Thus, the Bureau was constituted as follows:

Chair:
Rohan Perera (Sri Lanka)

Vice-Chairs:
Maria Telalian (Greece)
Ana Cristina Rodríguez-Pineda (Guatemala)
Dire David Tladi (South Africa)

Rapporteur:
Petr Válek (Czech Republic)

4. The Director of the Codification Division of the Office of Legal Affairs, George Korontzis, acted as Secretary of the Ad Hoc Committee. The Codification Division provided the substantive servicing for the Committee.

5. At the same meeting, the Ad Hoc Committee adopted the following agenda (A/AC.252/L.21):

1. Opening of the session.
2. Election of officers.
3. Adoption of the agenda.
4. Organization of work.
5. Consideration of the questions contained in the mandate of the Ad Hoc Committee as set out in paragraph 25 of General Assembly resolution 67/99.
6. Adoption of the report.

6. The Ad Hoc Committee had before it the report on its fifteenth session[1] and the report of the Working Group of the Sixth Committee of the sixty-fifth session of the General Assembly,[2] the latter containing texts of the preamble and articles 1, 2 and 4 to 27 of the draft comprehensive convention, prepared by the Friends of the Chair incorporating the various texts contained in annexes I, II and III to the report of the Ad Hoc Committee at its sixth session, for discussion, taking into account

[1] A/66/37.
[2] A/C.6.65/L.10.

developments in recent years, and written proposals in relation to the outstanding issues surrounding the draft comprehensive convention;[3] and the oral reports of the Chair of the Working Group of the Sixth Committee of the sixty-sixth and sixty-seventh sessions of the General Assembly.[4] It also had before it, as reference, two letters from the Permanent Representative of Egypt to the United Nations concerning the convening of a high-level special session of the General Assembly on cooperation against terrorism.[5]

II. Proceedings

7. The Ad Hoc Committee held two plenary meetings: the 49th on 8 April and the 50th on 12 April.

8. At its 49th meeting, on 8 April, the Ad Hoc Committee adopted its programme of work and general statements were made regarding the draft comprehensive convention on international terrorism and on the question of convening a high-level conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations. Further discussions were held in the context of informal consultations and informal contacts.

9. During the informal consultations on 8 and 9 April, chaired by the Coordinator of the draft convention, delegations exchanged views on outstanding issues surrounding the draft comprehensive convention on international terrorism. Informal contacts regarding the draft comprehensive convention were held on 9, 10 and 11 April. Annex I to the present report contains the preamble and articles 1, 2 and 4 to 27 of the draft comprehensive convention, prepared by the Bureau, incorporating the various provisions contained in A/C.6/65/L.10, annex I, for discussion. Annex II contains written proposals relating to the outstanding issues surrounding the draft comprehensive convention. An informal summary prepared by the Chair on the exchange of views during the plenary debate and the informal consultations appears in annex III (sects. A and B) to the present report. The informal summary is intended for reference purposes only and not as a record of the discussions.

10. During the informal consultations chaired by the Chair of the Ad Hoc Committee on 9 April, delegations exchanged views on the question of convening a high-level conference. An informal summary of the exchange of views on that issue appears in annex III (sect. C) to the present report. The informal summary is

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[3] Ibid.

[4] A/C.6/66/SR.28 and A/C.6/67/SR.23. See also the reports of the Ad Hoc Committee on its sixth to fourteenth sessions (A/57/37 and Corr.1, A/58/37, A/59/37, A/60/37, A/61/37, A/62/37, A/63/37, A/64/37 and A/65/37). See also the reports of the Working Group established at the fifty-fifth to sixtieth sessions of the General Assembly (A/C.6/55/L.2, A/C.6/56/L.9, A/C.6/57/L.9, A/C.6/58/L.10, A/C.6/59/L.10 and A/C.6/60/L.6). The summaries of the oral reports of the Chair of the Working Group established at the sixty-first, sixty-second, sixty-third and sixty-fourth sessions are contained in documents A/C.6/61/SR.21, A/C.6/62/SR.16, A/C.6/63/SR.14 and A/C.6/64/SR.14.

[5] Letters dated 1 and 30 September 2005 from the Permanent Representative of Egypt to the United Nations addressed to the Secretary-General and to the Chair of the Sixth Committee, respectively (A/60/329 and A/C.6/60/2).

intended for reference purposes only and does not constitute a record of the discussions.

11. At its 50th meeting, on 12 April, the Ad Hoc Committee adopted the report on its sixteenth session.

III. Recommendation

12. At its 50th meeting, on 12 April, the Ad Hoc Committee, noting that more time was required to achieve substantive progress on the outstanding issues, decided to recommend that the Sixth Committee, at the sixty-ninth session of the General Assembly, establish a working group with a view to finalizing the process on the draft comprehensive convention on international terrorism and discussions on the item included in its agenda by General Assembly resolution 54/110 concerning the question of convening a high-level conference under the auspices of the United Nations.

Annex I

Preamble and articles 1, 2 and 4 to 27 of the draft comprehensive convention on international terrorism prepared by the Bureau[a]

The States Parties to the present Convention,

Recalling the existing international treaties relating to various aspects of the problem of international terrorism, in particular the Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963, the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970, the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, concluded at Montreal on 23 September 1971, the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted in New York on 14 December 1973, the International Convention against the Taking of Hostages, adopted in New York on 17 December 1979, the Convention on the Physical Protection of Nuclear Material, adopted in Vienna on 26 October 1979, the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 24 February 1988, the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988, the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988, the Convention on the Marking of Plastic Explosives for the Purpose of Detection, done at Montreal on 1 March 1991, the International Convention for the Suppression of Terrorist Bombings, adopted in New York on 15 December 1997, the International Convention for the Suppression of the Financing of Terrorism, adopted in New York on 9 December 1999, the International Convention for the Suppression of Acts of Nuclear Terrorism, adopted in New York on 13 April 2005, the Amendment to the Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 8 July 2005, the Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at London on 14 October 2005, and the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at London on 14 October 2005,

Recalling also the Declaration on Measures to Eliminate International Terrorism, annexed to General Assembly resolution 49/60 of 9 December 1994,

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[a] The present text represents the stage of consideration reached at the 2013 session of the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996. It incorporates the various texts contained in A/C.6/65/L.10, annex I, for discussion. It is understood that further consideration will be given to the texts in future discussions, including on outstanding issues. Editorial changes of a technical nature were introduced in 2010 in order to align the language of the draft text with the recently adopted counter-terrorism instruments negotiated in the context of the Ad Hoc Committee and the Sixth Committee. The article numbers in square brackets correspond to the numbering of the relevant articles in previous texts.

Recalling further the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism, annexed to General Assembly resolution 51/210 of 17 December 1996,

Deeply concerned about the worldwide escalation of acts of terrorism in all its forms and manifestations, which endanger or take innocent lives, jeopardize fundamental freedoms and seriously impair the dignity of human beings,

Reaffirming their unequivocal condemnation of all acts, methods and practices of terrorism as criminal and unjustifiable, wherever and by whomever committed, including those which jeopardize friendly relations among States and peoples and threaten the territorial integrity and security of States,

Recognizing that acts, methods and practices of terrorism constitute a grave violation of the purposes and principles of the United Nations, which may pose a threat to international peace and security, jeopardize friendly relations among States, hinder international cooperation and aim at the undermining of human rights, fundamental freedoms and the democratic bases of society,

Recognizing also that the financing, planning and inciting of terrorist acts are also contrary to the purposes and principles of the United Nations, and that it is the duty of the States Parties to bring to justice those who have participated in such acts,

Convinced that the suppression of acts of international terrorism, including those in which States are directly or indirectly involved, is an essential element in the maintenance of international peace and security and the sovereignty and territorial integrity of States,

Noting that the Convention relating to the Status of Refugees, signed at Geneva on 28 July 1951, and the Protocol relating to the Status of Refugees, done at New York on 31 January 1967, do not provide a basis for the protection of perpetrators of terrorist acts, and stressing the importance of the full compliance by the Parties to those instruments with the obligations embodied therein, including, in particular, the principle of non-refoulement,

...

Bearing in mind the necessity of respecting human rights and international humanitarian law in the fight against terrorism,

Realizing the need for a comprehensive convention on international terrorism,

Have resolved to take effective measures to prevent acts of terrorism and to ensure that perpetrators of terrorist acts do not escape prosecution and punishment by providing for their extradition or prosecution, and to that end have agreed as follows:

Article 1

For the purposes of the present Convention:

1. "State or government facility" includes any permanent or temporary facility or conveyance that is used or occupied by representatives of a State, members of a Government, the legislature or the judiciary or by officials or employees of a State or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties.

2. "Military forces of a State" means the armed forces of a State which are organized, trained and equipped under its internal law for the primary purpose of national defence or security and persons acting in support of those armed forces who are under their formal command, control and responsibility.

3. "Infrastructure facility" means any publicly or privately owned facility providing or distributing services for the benefit of the public, such as water, sewerage, energy, fuel, banking, communications, telecommunications and information networks.

4. "Place of public use" means those parts of any building, land, street, waterway or other location that are accessible or open to members of the public, whether continuously, periodically or occasionally, and encompasses any commercial, business, cultural, historical, educational, religious, governmental, entertainment, recreational or similar place that is so accessible or open to the public.

5. "Public transportation system" means all facilities, conveyances and instrumentalities, whether publicly or privately owned, that are used in or for publicly available services for the transportation of persons or cargo.

Article 2

1. Any person commits an offence within the meaning of the present Convention if that person, by any means, unlawfully and intentionally, causes:

(a) Death or serious bodily injury to any person; or

(b) Serious damage to public or private property, including a place of public use, a State or government facility, a public transportation system, an infrastructure facility or to the environment; or

(c) Damage to property, places, facilities or systems referred to in paragraph 1 (b) of the present article resulting or likely to result in major economic loss, when the purpose of the conduct, by its nature or context, is to intimidate a population, or to compel a Government or an international organization to do or to abstain from doing any act.

2. Any person also commits an offence if that person makes a credible and serious threat to commit an offence as set forth in paragraph 1 of the present article.

3. Any person also commits an offence if that person attempts to commit an offence as set forth in paragraph 1 of the present article.

4. Any person also commits an offence if that person:

(a) Participates as an accomplice in an offence as set forth in paragraph 1, 2 or 3 of the present article; or

(b) Organizes or directs others to commit an offence as set forth in paragraph 1, 2 or 3 of the present article; or

(c) Contributes to the commission of one or more offences as set forth in paragraph 1, 2 or 3 of the present article by a group of persons acting with a common purpose. Such contribution shall be intentional and shall either:

(i) Be made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of an offence as set forth in paragraph 1 of the present article; or

(ii) Be made in the knowledge of the intention of the group to commit an offence as set forth in paragraph 1 of the present article.

...

Article 4 [2 bis]

Where the present Convention and a treaty dealing with a specific category of terrorist offence would be applicable in relation to the same act as between States that are parties to both the present Convention and the said treaty, the provisions of the latter shall prevail.

Article 5 [3]

The present Convention shall not apply where the offence is committed within a single State, the alleged offender and the victims are nationals of that State, the alleged offender is found in the territory of that State and no other State has a basis under article 8 [6], paragraph 1 or 2, of the present Convention to exercise jurisdiction, except that the provisions of articles 10 [8] and 14 [12] to 18 [16] of the present Convention shall, as appropriate, apply in those cases.

Article 6 [4]

Each State Party shall adopt such measures as may be necessary:

(a) To establish as criminal offences under its domestic law the offences set forth in article 2 of the present Convention;

(b) To make these offences punishable by appropriate penalties which take into account the grave nature of these offences.

Article 7 [5]

Each State Party shall adopt such measures as may be necessary, including, where appropriate, domestic legislation, to ensure that criminal acts within the scope of the present Convention are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature.

Article 8 [6]

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 of the present Convention when:

(a) The offence is committed in the territory of that State; or

(b) The offence is committed on board a vessel flying the flag of that State or an aircraft which is registered under the laws of that State at the time the offence is committed; or

(c) The offence is committed by a national of that State.

2. A State Party may also establish its jurisdiction over any such offence when:

(a) The offence is committed by a stateless person who has his or her habitual residence in the territory of that State; or

(b) The offence is committed wholly or partially outside its territory, if the effects of the conduct or its intended effects constitute or result in, within its territory, the commission of an offence set forth in article 2; or

(c) The offence is committed against a national of that State; or

(d) The offence is committed against a State or government facility of that State abroad, including an embassy or other diplomatic or consular premises of that State; or

(e) The offence is committed in an attempt to compel that State to do or to abstain from doing any act; or

(f) The offence is committed on board an aircraft which is operated by the Government of that State.

3. Upon ratifying, accepting, approving or acceding to the present Convention, each State Party shall notify the Secretary-General of the United Nations of the jurisdiction it has established under its domestic law in accordance with paragraph 2 of the present article. Should any change take place, the State Party concerned shall immediately notify the Secretary-General.

4. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 2 in cases where the alleged offender is present in its territory and it does not extradite that person to any of the States Parties that have established their jurisdiction in accordance with paragraph 1 or 2 of the present article.

5. When more than one State Party claims jurisdiction over the offences set forth in article 2, the relevant States Parties shall strive to coordinate their actions appropriately, in particular concerning the conditions for prosecution and the modalities for mutual legal assistance.

6. Without prejudice to the norms of general international law, the present Convention does not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law.

Article 9 [7]

States Parties shall take appropriate measures, in conformity with the relevant provisions of national and international law, including international human rights law, for the purpose of ensuring that refugee status is not granted to any person in respect of whom there are serious reasons for considering that he or she has committed an offence set forth in article 2 of the present Convention.

Article 10 [8]

1. States Parties shall cooperate in the prevention of the offences set forth in article 2 of the present Convention by taking all practicable measures, including, if necessary and where appropriate, adapting their domestic legislation, to prevent and

counter preparations in their respective territories for the commission, within or outside their territories, of those offences, including:

(a) Measures to prohibit the illegal activities of persons, groups and organizations that encourage, instigate, organize, knowingly finance or engage in the commission of offences set forth in article 2;

(b) In particular, measures to prohibit the establishment and operation of installations and training camps for the commission of offences set forth in article 2.

2. States Parties shall further cooperate in the prevention of the offences set forth in article 2, in accordance with their domestic law, by exchanging accurate and verified information and coordinating administrative and other measures taken as appropriate to prevent the commission of offences set forth in article 2, in particular by:

(a) Establishing and maintaining channels of communication between their competent agencies and services to facilitate the secure and rapid exchange of information concerning all aspects of offences set forth in article 2;

(b) Cooperating with one another in conducting inquiries, with respect to the offences set forth in article 2, concerning:

(i) The identity, whereabouts and activities of persons in respect of whom reasonable suspicion exists that they are involved in such offences;

(ii) The movement of funds, property, equipment or other instrumentalities relating to the commission of such offences.

3. States Parties may exchange information through the International Criminal Police Organization (INTERPOL) or other international and regional organizations.

Article 11 [9]

1. Each State Party, in accordance with its domestic legal principles, shall take the necessary measures to enable a legal entity located in its territory or organized under its laws to be held liable when a person responsible for the management or control of that legal entity has, in that capacity, committed an offence set forth in article 2 of the present Convention. Such liability may be criminal, civil or administrative.

2. Such liability is incurred without prejudice to the criminal liability of individuals having committed the offences.

3. Each State Party shall ensure, in particular, that legal entities liable in accordance with paragraph 1 of the present article are subject to effective, proportionate and dissuasive criminal, civil or administrative sanctions. Such sanctions may include monetary sanctions.

Article 12 [10]

1. Upon receiving information that a person who has committed or who is alleged to have committed an offence set forth in article 2 of the present Convention may be present in its territory, the State Party concerned shall take such measures as may be necessary under its domestic law to investigate the facts contained in the information.

2. Upon being satisfied that the circumstances so warrant, the State Party in whose territory the offender or alleged offender is present shall take the appropriate measures under its domestic law so as to ensure that person's presence for the purpose of prosecution or extradition.

3. Any person regarding whom the measures referred to in paragraph 2 of the present article are being taken shall be entitled:

(a) To communicate without delay with the nearest appropriate representative of the State of which that person is a national or which is otherwise entitled to protect that person's rights or, if that person is a stateless person, the State in the territory of which that person habitually resides;

(b) To be visited by a representative of that State;

(c) To be informed of that person's rights under subparagraphs (a) and (b) above.

4. The rights referred to in paragraph 3 of the present article shall be exercised in conformity with the laws and regulations of the State in the territory of which the offender or alleged offender is present, subject to the provision that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under paragraph 3 are intended.

5. The provisions of paragraphs 3 and 4 of the present article shall be without prejudice to the right of any State Party having a claim to jurisdiction in accordance with article 8 [6], paragraph 1 (c) or 2 (a), of the present Convention to invite the International Committee of the Red Cross to communicate with and visit the alleged offender.

6. When a State Party, pursuant to the present article, has taken a person into custody, it shall immediately notify, directly or through the Secretary-General of the United Nations, the States Parties which have established jurisdiction in accordance with article 8 [6], paragraph 1 or 2, and, if it considers it advisable, any other interested States Parties, of the fact that such person is in custody and of the circumstances which warrant that person's detention. The State which makes the investigation contemplated in paragraph 1 of the present article shall promptly inform the said States Parties of its findings and shall indicate whether it intends to exercise jurisdiction.

Article 13 [11]

1. The State Party in the territory of which the alleged offender is present shall, in cases to which article 8 [6] of the present Convention applies, if it does not extradite that person, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case without undue delay to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any other offence of a grave nature under the law of that State.

2. Whenever a State Party is permitted under its domestic law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that State to serve the sentence imposed as a result of the trial or proceeding for which the extradition or surrender of the person was sought, and this

State and the State seeking the extradition of the person agree with this option and other terms they may deem appropriate, such a conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 1 of the present article.

Article 14 [12]

Any person who is taken into custody or regarding whom any other measures are taken or proceedings are carried out pursuant to the present Convention shall be guaranteed fair treatment, including enjoyment of all rights and guarantees in conformity with the law of the State in the territory of which that person is present and applicable provisions of international law, including international human rights law and, in particular, the Standard Minimum Rules for the Treatment of Prisoners.

Article 15 [13]

1. States Parties shall afford one another the greatest measure of assistance in connection with investigations or criminal or extradition proceedings brought in respect of the offences set forth in article 2 of the present Convention, including assistance in obtaining evidence at their disposal necessary for the proceedings.

2. States Parties shall carry out their obligations under paragraph 1 of the present article in conformity with any treaties or other arrangements on mutual legal assistance that may exist between them. In the absence of such treaties or arrangements, States Parties shall afford one another assistance in accordance with their domestic law.

3. Each State Party may give consideration to establishing mechanisms to share with other States Parties information or evidence needed to establish criminal, civil or administrative liability pursuant to article 11 [9] of the present Convention.

Article 16 [14]

None of the offences set forth in article 2 of the present Convention shall be regarded, for the purposes of extradition or mutual legal assistance, as a political offence or as an offence connected with a political offence or as an offence inspired by political motives. Accordingly, a request for extradition or for mutual legal assistance based on such an offence may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

Article 17 [15]

Nothing in the present Convention shall be interpreted as imposing an obligation to extradite or to afford mutual legal assistance, if the requested State Party has substantial grounds for believing that the request for extradition for offences set forth in article 2 of the present Convention or for mutual legal assistance with respect to such offences has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin or political opinion, or that compliance with the request would cause prejudice to that person's position for any of these reasons.

Article 18 [16]

1. A person who is being detained or is serving a sentence in the territory of one State Party whose presence in another State Party is requested for purposes of identification, testimony or otherwise providing assistance in obtaining evidence for the investigation or prosecution of offences under the present Convention may be transferred if the following conditions are met:

(a) The person freely gives his or her informed consent; and

(b) The competent authorities of both States Parties agree, subject to such conditions as those States Parties may deem appropriate.

2. For the purposes of the present article:

(a) The State to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State from which the person was transferred;

(b) The State to which the person is transferred shall, without delay, implement its obligation to return the person to the custody of the State from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States;

(c) The State to which the person is transferred shall not require the State from which the person was transferred to initiate extradition proceedings for the return of the person;

(d) The person transferred shall receive credit for service of the sentence being served in the State from which he or she was transferred for the time spent in the custody of the State to which he or she was transferred.

3. Unless the State Party from which a person is to be transferred in accordance with the present article so agrees, that person, whatever his or her nationality, shall not be prosecuted or detained or subjected to any other restriction of his or her personal liberty in the territory of the State to which that person is transferred in respect of acts or convictions anterior to his or her departure from the territory of the State from which such person was transferred.

Article 19 [17]

1. The offences set forth in article 2 of the present Convention shall be deemed to be included as extraditable offences in any extradition treaty existing between any of the States Parties before the entry into force of the present Convention. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be subsequently concluded between them.

2. When a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, the requested State may, at its option, consider the present Convention as a legal basis for extradition in respect of the offences set forth in article 2. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences set forth in article 2 as extraditable offences

between themselves, subject to the conditions provided by the law of the requested State.

4. If necessary, the offences set forth in article 2 shall be treated, for the purposes of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territory of the States that have established jurisdiction in accordance with article 8 [6], paragraphs 1 and 2, of the present Convention.

5. The provisions of all extradition treaties and arrangements between States Parties with regard to offences set forth in article 2 shall be deemed to be modified as between States Parties to the extent that they are incompatible with the present Convention.

Article 20 [17 bis]

The State Party where the alleged offender is prosecuted shall, in accordance with its domestic law or its applicable procedures, communicate the final outcome of the proceedings to the Secretary-General of the United Nations, who shall transmit the information to the other States Parties.

Article 21 [20]

States Parties shall carry out their obligations under the present Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States.

Article 22

Nothing in the present Convention entitles a State Party to undertake in the territory of another State Party the exercise of jurisdiction or performance of functions which are exclusively reserved for the authorities of that other State Party by the law in force in that State Party.

Article 23

1. Any dispute between two or more States Parties concerning the interpretation or application of the present Convention which cannot be settled through negotiation within a reasonable time shall, at the request of one of them, be submitted to arbitration. If, within six months of the date of the request for arbitration, the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice, by application, in conformity with the Statute of the Court.

2. Each State may, at the time of signature, ratification, acceptance or approval of the present Convention or accession thereto, declare that it does not consider itself bound by paragraph 1 of the present article. The other States Parties shall not be bound by paragraph 1 of the present article with respect to any State Party which has made such a reservation.

3. Any State which has made a reservation in accordance with paragraph 2 of the present article may, at any time, withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 24

1. The present Convention shall be open for signature by all States from ... to ... at United Nations Headquarters in New York.

2. The present Convention is subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations.

3. The present Convention shall be open to accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 25

1. The present Convention shall enter into force on the thirtieth day following the date of the deposit of the twenty-second instrument of ratification, acceptance, approval or accession with the Secretary-General of the United Nations.

2. For each State ratifying, accepting, approving or acceding to the Convention after the deposit of the twenty-second instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification, acceptance, approval or accession.

Article 26

1. A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations.

2. Denunciation shall take effect one year following the date on which such notification is received by the Secretary-General of the United Nations.

Article 27

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed the present Convention.

Done at New York this ... of ... two thousand and ....

Annex II

Written proposals in relation to the outstanding issues surrounding the draft comprehensive convention[a]

Source	*Symbol*	*Subject*
Bureau		Text relating to the preamble and article 3 [18] of the draft comprehensive convention
Nicaragua	A/C.6/65/WG.2/DP.1	Text relating to article 2
Friends of the Chair	A/C.6/60/INF/1	Text relating to article 3 [18]
Friends of the Chair	A/C.6/60/INF/2	Text relating to preamble
Argentina	A/61/37, annex II (A/AC.252/2006/WP.1)	Text relating to preamble amending document A/C.6/60/INF/2
Cuba	A/60/37, annex III (A/AC.252/2005/WP.2)	Text relating to article 2
Coordinator (2002)	A/57/37, annex IV	Text relating to article 3 [18]
The Member States of the Organization of the Islamic Conference	A/57/37, annex IV	Text relating to article 3 [18]

Text relating to the preamble and article 3 [18] of the draft comprehensive convention proposed by the Bureau for discussion[b]

Preamble

Noting that the activities of military forces of States are governed by rules of international law outside the framework of the present Convention, and that the exclusion of certain actions from the coverage of the present Convention does not condone or make lawful otherwise unlawful acts, or preclude prosecution under other laws,

[a] These proposed texts represent the stage of consideration reached at the 2013 session of the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996. It is understood that further consideration will be given to these written amendments and proposals, together with all other written and oral proposals, in future discussions, including on outstanding issues. The article numbers in square brackets correspond to the numbering of the relevant articles in previous texts.

[b] The proposal of the Bureau represents the proposed elements of an overall package presented by the Coordinator in 2007 (A/C.6/65/L.10, annex II) for discussion.

Article 3 [18]

1. Nothing in the present Convention shall affect other rights, obligations and responsibilities of States, peoples and individuals under international law, in particular the purposes and principles of the Charter of the United Nations, and international humanitarian law.

2. The activities of armed forces during an armed conflict, as those terms are understood under international humanitarian law, which are governed by that law, are not governed by the present Convention.

3. The activities undertaken by the military forces of a State in the exercise of their official duties, inasmuch as they are governed by other rules of international law, are not governed by the present Convention.

4. Nothing in the present article condones or makes lawful otherwise unlawful acts, nor precludes prosecution under other laws; acts which would amount to an offence as defined in article 2 of the present Convention remain punishable under such laws.

5. The present Convention is without prejudice to the rules of international law applicable in armed conflict, in particular those rules applicable to acts lawful under international humanitarian law.

* * *

Proposal submitted by Nicaragua (A/C.6/65/WG.2/DP.1)

Article 2 of the draft comprehensive convention on international terrorism

Add a paragraph 4 (e)

(e) Being in a position to control or direct effectively the actions of armed groups not belonging to the armed forces of the State but responding to it, orders, permits, or participates directly or indirectly in the planning, preparation, initiation or execution of any of the offences set forth in paragraphs 1, 2 or 3 of the present article in a manner incompatible with the purposes and principles of the Charter of the United Nations.

* * *

Proposal to facilitate discussion by the Friends of the Chair of the Working Group on measures to eliminate international terrorism (A/C.6/60/INF/1)

Proposed addition to article 3 [18] of the draft comprehensive convention on international terrorism

5. Nothing in this Convention makes unlawful acts which are governed by international humanitarian law and which are not unlawful under that law.

* * *

Proposal to facilitate discussion by the Friends of the Chair of the Working Group on measures to eliminate international terrorism (A/C.6/60/INF/2)

Proposed preambular paragraph of the draft comprehensive convention on international terrorism

Reaffirming the right to self-determination of peoples in accordance with the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,[1]

[1] General Assembly resolution 2625 (XXV), annex.

* * *

Proposal submitted by Argentina amending document A/C.6/60/INF/2 (A/61/37, annex II)

Proposed preambular paragraph of the draft comprehensive convention on international terrorism

Reaffirming the right to self-determination of peoples in accordance with the Charter of the United Nations, the Declaration on the Granting of Independence to Colonial Countries and Peoples[1] and the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,[2]

[1] General Assembly resolution 1514 (XV).

[2] General Assembly resolution 2625 (XXV), annex.

* * *

Proposal submitted by Cuba (A/60/37, annex III)

Draft comprehensive convention on international terrorism and draft international convention for the suppression of acts of nuclear terrorism

In article 2 of both draft conventions, add a new paragraph 4 (d) reading:

Being in a position to control or direct effectively the actions of troops belonging to the armed forces of the State, orders, permits or actively participates in the planning, preparation, initiation or execution of any of the offences set forth in paragraphs 1, 2 or 3 of the present article, in a manner incompatible with international law, including the Charter of the United Nations.

* * *

Text circulated by the Coordinator (2002) for discussion (A/57/37, annex IV)

Text relating to article 3 [18] of the draft comprehensive convention

1. Nothing in this Convention shall affect other rights, obligations and responsibilities of States, peoples and individuals under international law, in particular the purposes and principles of the Charter of the United Nations and international humanitarian law.

2. The activities of armed forces during an armed conflict, as those terms are understood under international humanitarian law, which are governed by that law, are not governed by this Convention.

3. The activities undertaken by the military forces of a State in the exercise of their official duties, inasmuch as they are governed by other rules of international law, are not governed by this Convention.

4. Nothing in this article condones or makes lawful otherwise unlawful acts, nor precludes prosecution under other laws.

* * *

Text proposed by the member States of the Organization of the Islamic Conference (A/57/37, annex IV)

Text relating to article 3 [18] of the draft comprehensive convention

1. Nothing in this Convention shall affect other rights, obligations and responsibilities of States, peoples and individuals under international law, in particular the purposes and principles of the Charter of the United Nations and international humanitarian law.

2. The activities of the parties during an armed conflict, including in situations of foreign occupation, as those terms are understood under international humanitarian law, which are governed by that law, are not governed by this Convention.

3. The activities undertaken by the military forces of a State in the exercise of their official duties, inasmuch as they are in conformity with international law, are not governed by this Convention.

4. Nothing in this article condones or makes lawful otherwise unlawful acts, nor precludes prosecution under other laws.

Annex III

Informal summary prepared by the Chair on the exchange of views during the plenary debate and the informal consultations

A. General

1. During the general exchange of views at the 49th meeting of the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996 and the informal consultations, on 8 April 2013, delegations, citing in some cases specific terrorist acts against their States, reiterated their unequivocal condemnation of all forms of terrorism, regardless of its motivation, as criminal and unjustifiable, wherever, whenever and by whomsoever committed. It was recalled that the global consensus on this point was reflected in the United Nations Global Counter-Terrorism Strategy.

2. Recalling the pernicious nature of terrorism, it was underlined that terrorism posed an ongoing threat to international peace and security, endangered the territorial integrity and stability of States and jeopardized the safety, security and general well-being of people around the world. Several delegations also pointed out that terrorism created widespread adverse social consequences and that it was capable of destroying the economic and physical infrastructure of States.

3. Delegations emphasized that all measures taken to counter terrorism must respect the rule of law and be carried out in conformity with international law, in particular the Charter of the United Nations, human rights law, international humanitarian law and refugee law. The Security Council sanctions committees were called upon to further streamline their listing and delisting procedures to address due process and transparency concerns.

4. Several delegations emphasized the need to distinguish terrorism from the legitimate struggle of peoples under colonial or alien domination and foreign occupation in the exercise of their right to self-determination. In that regard, attention was drawn to relevant General Assembly resolutions, including resolution 46/51. Some delegations pointed to and regretted the impact of collateral damage in combating terrorism, highlighting that it should not be tolerated. Several delegations expressed concern over the application of double standards in actions taken to counter terrorism. It was emphasized that terrorism should not be associated with any religion, culture, nationality, race, civilization or ethnic group, and that such attributions should not be used to justify counter-terrorism measures, including the profiling of individuals and intrusions on individual privacy.

5. Some delegations asserted that effective counter-terrorism efforts must begin with tackling the culture of extremism and incitement to commit acts of terrorism. Several delegations stressed the need to address the root causes of terrorism and the conditions conducive to terrorism. Some delegations alluded to the need to address political and economic injustice, marginalization, poverty, hunger and alienation in any comprehensive strategy to combat terrorism.

6. Stressing the importance of mutual respect and mutual cooperation in coordinating global efforts to counter terrorism, some delegations highlighted that

terrorism was a multifaceted phenomenon, requiring multidimensional, holistic and coordinated approaches and counter-terrorism strategies. In that connection, some delegations underlined the central role of the United Nations in the coordination of global counter-terrorism efforts. Delegations reiterated their support for the United Nations Global Counter-Terrorism Strategy and called for its full realization and transparent implementation. The third biennial review of the Strategy in 2012 was welcomed by some delegations. Other delegations expressed support for the work and coordinating role of the Counter-Terrorism Implementation Task Force, as well as the work of the United Nations Counter-Terrorism Centre. Attention was drawn to the need for cooperation at the regional and bilateral levels in countering terrorism. In that regard, examples of steps and specific actions taken at such levels were cited.

7. The importance of becoming a party to the various counter-terrorism legal instruments and of implementing them at the national level was highlighted.

8. Some delegations identified the financing of terrorism as a matter of grave concern and asserted that the fight against terrorism would only succeed if such financing were comprehensively addressed. Reference was made, in that regard, to the need to combat the related criminal activities of terrorist groups, including kidnapping, hostage-taking and the various forms of trafficking committed by such groups to raise funds and attain leverage. The view was expressed that States should ban the payment of ransoms to terrorist groups. Attention was drawn to the need to address the plight of victims of terrorism.

B. Draft comprehensive convention on international terrorism

9. Discussions on the draft comprehensive convention on international terrorism were held during the 49th meeting and during the informal consultations on 8 and 9 April 2013. Informal contacts on the draft convention were held on 9, 10 and 11 April. At the informal consultations, on 8 April, the Coordinator of the outstanding issues on the draft comprehensive convention, Maria Telalian (Greece), reported on the informal contacts that had taken place on 4 and 5 April, and referred once more to the 2007 elements of the overall package (A/C.6/65/L.10, annex II), which formed the basis of discussions in the informal consultations.

1. Summary of the statement of the Coordinator made on 8 April 2013

10. The Coordinator stated that informal bilateral contacts had taken place on 4 and 5 April 2013 on the basis of the elements of the overall package presented in 2007. While delegations had stressed the importance of concluding the draft convention and had appeared to be positively disposed to doing so, they seemed reluctant to seize the moment and take the necessary decisive steps forward.

11. The Coordinator recalled that the outstanding issues regarding the draft convention revolved primarily around draft article 3 (formerly draft article 18). After narrating the developments that had occurred on the draft comprehensive convention since 2000, the Coordinator noted that the elements of an overall package presented in 2007 (see A/C.6/65/L.10, annex II), which built upon language that had already been agreed upon in previous instruments, consisted of a preamble, an addition to paragraph 4 of draft article 3 and a new paragraph 5 to draft article 3.

12. The Coordinator indicated that draft article 3 had to be understood in the light of the draft convention in its entirety and that any attempt to pick and choose particular provisions of the elements would unbalance the text as a whole. The Coordinator also underscored the close relationship between draft article 2 and draft article 3. The former provided the inclusionary elements by defining acts of terrorism for the purposes of the draft convention, while the latter addressed exclusionary elements by seeking, in particular, to safeguard the application of other fields of law.

13. Since delegations stressed the need to have a clear definition of acts of terrorism, to distinguish such acts from the right of peoples to self-determination, in particular those under foreign occupation and under colonial or alien domination, to ensure the integrity of international humanitarian law and to ensure that there is no impunity for military forces of the State, a serious attempt had been made to address such concerns in the elements of the overall package, as read with draft article 2, while bearing in mind the need to use, as appropriate, language previously agreed upon. Thus, paragraph 1 of draft article 3 corresponded to paragraph 1 of article 19 of the International Convention for the Suppression of Terrorist Bombings, and paragraph 1 of article 4 of the International Convention for the Suppression of Acts of Nuclear Terrorism. The paragraph, however, contained the important addition of the word "peoples" to acknowledge the right to self-determination.

14. Paragraph 2 of draft article 3 corresponded in part to paragraph 2 of article 19 of the Terrorist Bombings Convention, as well as paragraph 2 of article 4 of the Nuclear Terrorism Convention. Noting that international humanitarian law was a self-contained regime, the Coordinator stated that the paragraph had been carefully drafted so that the words used would be understood in their full context under the law governing conduct in armed conflict — such activities were not to be governed by the draft convention, but rather by international humanitarian law. The Coordinator acknowledged that the paragraph had been a source of concern, which had given rise to the current discussions, and noted that the addition of paragraph 5 was intended to address those concerns.

15. Paragraph 3 of draft article 3 corresponded to the latter part of paragraph 2 of article 19 of the Terrorist Bombings Convention, as well as paragraph 2 of article 4 of the Nuclear Terrorism Convention. Unlike paragraph 2 of draft article 3, dealing with activities during armed conflict, paragraph 3 was generally understood as addressing questions that may arise during peacetime. The scope of "military forces of a State" in paragraph 3 was not coterminous with "activities of armed forces during an armed conflict" in paragraph 2. The activities of military forces of a State would not be governed by the Convention inasmuch as those activities are governed by other rules of international law. It was recalled that the use of the words "inasmuch as" had been carefully negotiated at the time of the elaboration of the Terrorist Bombings Convention. It was also stressed that paragraph 3 had to be read together with paragraph 4, which reaffirms that acts that would amount to an offence as defined in article 2 of the draft Convention would remain punishable under such other laws.

16. Paragraph 4 of draft article 3 tracked the language of paragraph 3 of article 4 of the Nuclear Terrorism Convention. That provision, together with the addition that acts that would amount to an offence as defined in article 2 of the draft convention remained punishable under other laws, accorded deference to existing applicable

law. The draft convention did not intend to substantively exclude prosecution under other laws. The additional preambular paragraph, which contained language found in both the Terrorist Bombings Convention and the Nuclear Terrorism Convention, rounded off the understanding of paragraphs 3 and 4. In order to stress that immunity is not the same as impunity, the proposed preambular paragraph signalled that the exclusion of certain activities from the coverage of the draft convention did not condone or make lawful otherwise unlawful acts, or preclude prosecution under other laws.

17. Paragraph 5 of draft article 3 had no corresponding provision in previous instruments even though it addressed the principle captured in paragraph 2, which reflected language found in prior instruments. It stressed the importance of preserving the integrity of international humanitarian law. An attempt was made to make clearer the demarcation between what was covered by the draft convention and those acts that were governed by international humanitarian law.

18. In addition to speaking about the elements of the 2007 package, the Coordinator recalled that there were a number of issues to be borne in mind during the informal consultations (see A/C.6/65/L.10, annex III, paras. 23 and 24), which had been captured in an accompanying draft resolution (A/C.6/66/SR.28, para. 89).

2. Summary of the discussions held during the 49th meeting and the informal consultations held on 8 and 9 April 2013

19. In their general remarks, delegations reiterated the importance they attached to concluding the draft comprehensive convention on international terrorism. They emphasized that the draft convention would fill gaps and complement existing conventions and thereby strengthen the legal counter-terrorism framework. They also emphasized that the draft convention would constitute a useful tool to help the international community in its efforts to combat this scourge. Delegations affirmed their commitment to remaining engaged in the negotiating process. Reference was made to the important role played by the General Assembly over the years in building consensus in the fight against terrorism, including during the adoption of the United Nations Global Counter-Terrorism Strategy, and several delegations emphasized that the draft convention should be adopted by consensus. Other delegations observed, however, that while consensus would be preferable, it might not be the only way forward. It was recalled that the General Assembly had recently adopted the Arms Trade Treaty even though consensus could not be reached.

20. Referring to the mandate of the Ad Hoc Committee set out in paragraph 26 of General Assembly resolution 67/99, as well as to the years that had lapsed since the negotiations had begun, several delegations observed that it was time to make a concerted effort to overcoming the remaining outstanding issues and reaching consensus on the text. Thus, States were called upon to show flexibility and approach the work of the Committee in a constructive manner and in a spirit of compromise. In that regard, delegations were reminded that although the outcome might not constitute a perfect text that was satisfactory to all, it would represent a compromise solution. The view was nevertheless expressed that is was essential not to sacrifice an effective definition of terrorism for the sake of expediency.

21. Some delegations, alluding to the working methods of the Ad Hoc Committee, stressed the need to conduct the negotiations in a transparent and inclusive multilateral manner. Several delegations underscored the importance of preserving

the integrity of the text, noting that efforts should focus on draft article 3, relating to the scope of the draft convention. Even though it was understood that the Committee proceeded on the basis that "nothing is agreed until everything is agreed", delegations were urged to refrain from reopening the discussion on provisions that had been substantially agreed upon during previous sessions.

22. Focusing on the outstanding issues surrounding the draft convention, delegations expressed their willingness to work on the basis of the proposal presented by the Coordinator in 2007. Some delegations, however, rejected the notion that the 2007 proposal should be treated as a "take it or leave it" offer and asserted that it should be considered as a basis for further negotiations. It was pointed out that all previous proposals remained on the table. Other delegations indicated that they would be willing to consider the 2007 proposal, without modification, if that proposal resulted in a successful conclusion to the negotiations. It was noted that what was needed was a flexible approach to solving the impasse among delegations.

23. While some delegations reiterated their preference for the proposal made by the Organization of Islamic Cooperation (formerly the Organization of the Islamic Conference) in 2002 (A/C.6/65/L.10, annex II), they stated their willingness to continue to consider the Coordinator's 2007 proposal. It was observed once more that several pending substantive legal issues in the 2007 proposal still needed to be addressed appropriately. In that context, several delegations stressed the need for the draft convention to contain a clear definition of terrorism that would distinguish between acts of terrorism and the legitimate struggle of peoples under foreign occupation and colonial or alien domination in the exercise of their right to self-determination, as endorsed in General Assembly resolution 46/51 and other related United Nations documents. Some delegations were of the view that the draft convention, in order to be comprehensive, should include the notion of State terrorism, including acts committed by the military forces of a State. In that regard, it was noted that the definition of terrorism in draft article 2 should include activities of individuals in command of the armed forces of a State or in control of armed groups in situations where these activities are not governed by international humanitarian law. The relevance of previous proposals relating to draft article 2 were reiterated (A/C.6/65/L.10, annex II). The view was expressed that those substantive issues should not be relegated to an accompanying resolution, as had been suggested.

24. Several delegations reaffirmed their support for the 2007 proposal and considered that it constituted a legally sound and delicately balanced compromise text that should be accepted without any further modification. In their view, the proposal appropriately addressed all concerns that had been expressed during the negotiations, either in the text or in the proposed accompanying resolution, and respected the integrity of international humanitarian law and other legal regimes while ensuring that there was no impunity. It was reiterated that the draft convention was a law enforcement instrument dealing with individual criminal responsibility and that the notion of State terrorism was incompatible with the approach taken in the elaboration of the various counter-terrorism instruments. It was noted that the draft convention should not extend to State military action. Those aspects were already covered by different legal regimes, including the law on State responsibility. It was also noted that the Coordinator had proposed language to manage expectations in the draft accompanying resolution which, inter alia, reaffirmed the

duty of every State to refrain from organizing, instigating, assisting or participating in acts of civil strife or terrorist acts in another State or acquiescing in organized activities within its territory directed towards the commission of such acts, when those acts involved the threat of the use of force or the use of force.

25. Recalling the serious attempts that had been made over the years to accommodate the various viewpoints, it was observed that a comparison of the 2007 proposal by the Coordinator with the 2002 proposal by the Organization of Islamic Cooperation and the 2002 proposal by the former Coordinator (A/C.6/65/L.10, annex II), revealed textual similarities. It was pointed out that the 2007 compromise text had achieved a balance so fine between the two earlier proposals that it would be difficult to introduce any amendment without going too far in either direction, thereby leaving delegations with only the regressive prospect of reverting to previous proposals that had failed to garner consensus in the past.

26. With specific focus on paragraphs 2 and 3 of draft article 3, some delegations observed that while the textual differences between the 2007 proposal and the 2002 Organization of Islamic Cooperation proposal might seem slight, as, in their view, they constituted significant substantive differences that affected the scope of the draft convention. In particular, attention was drawn to the term "armed forces" in the 2007 proposal and the term "parties", used in the 2002 proposal. It was suggested that the latter ensured that, in situations of armed conflict, all actors, with the exception of mercenaries, were excluded from the scope of the convention, and that the focus had shifted from the actor to the act in question. It was also noted that the term "armed forces" might give rise to certain constitutional issues in some countries. The point was also made that the term "parties" was a familiar term under international humanitarian law and it also left a margin of manoeuvre. In response, it was observed that the 2007 proposal dealt with the activities of armed forces and that the term "armed forces", unlike "parties", was a term that had been well defined in international humanitarian law. In accordance with developments in international humanitarian law, it included activities of non-State actors as long as certain conditions as prescribed by that law were met. It was cautioned that introducing terms that were not defined under international humanitarian law raised the risk of widening the scope of exclusions, which could lead to unintended consequences. It was also pointed out that the term "armed conflict" in paragraph 2 of draft article 3 included, under international humanitarian law, situations of foreign occupation, further minimizing the differences between the two proposals.

27. It was noted that while the draft convention did not define "armed forces", it did define, in draft article 1, the term "military forces of a State", which was employed in paragraph 3 of draft article 3. It was also noted, however, that whereas "armed forces" was defined under international humanitarian law, the term "military forces" was not, which meant that a definition of that term would need to appear in the draft convention. A discussion also took place on the nuances of the meaning of the term "inasmuch as" in paragraph 3 of draft article 3 and, in particular, on whether it meant "because" or "to the extent that".

28. The view was reiterated that the 2007 proposal, together with the explanations and interpretations offered by the Coordinator with regard to paragraph 5 of draft article 3, confirming the hierarchy between the draft convention and international humanitarian law, merited serious consideration.

29. More generally, it was noted that, with regard to the 2007 proposal, it was not clear why it was necessary to limit the instrument with a law enforcement definition, why there was a reluctance to address the pertinent issues in international humanitarian law language and why certain delegations were unwilling to include in the scope of the draft convention the activities of military forces during peacetime. The usefulness of concluding a comprehensive convention that did not cover all terrorist acts was also questioned. In response, the Coordinator observed that paragraph 5 of draft article 3 had been elaborated precisely to address those concerns and reiterated that it was necessary to read the article as a whole and not to isolate the various paragraphs. In particular, it was important to read draft article 3 together with draft article 2. The key was to distinguish the activities governed by international humanitarian law from those that would be governed by the draft convention, which was the purpose of the "without prejudice" clause contained in paragraph 5.

30. Discussions on the outstanding issues also gave rise to consideration of issues concerning the way forward. It was pointed out that continuing the negotiations in the manner in which they had proceeded over the years was not a viable option for the future. The time had come to make certain decisions and three possible scenarios were put forward for consideration: (a) to proceed with a recommendation for the adoption of the convention on the basis of the 2007 proposal; (b) to register the status of the negotiations by putting together a consolidated text in order to preserve the acquis, with an indication that there was currently no consensus on the text; and (c) to acknowledge that there was no reasonable prospect for consensus at the present stage, which would necessitate a pause in the negotiations while also not excluding the possibility of a delegation or a group of delegations bringing up a text of a convention for consideration by the General Assembly.

31. Attention was drawn to the sequence of the three options, which seemed to be logical. Some delegations expressed their readiness and preference to pursue the first option, which they considered the best way forward. They observed that a second best alternative would be to prepare a consolidated text that would preserve the status of the negotiations in order to facilitate future work. It was also suggested that the Committee could recommend that future work should be conducted on the basis of the 2007 proposal, which would represent progress.

32. Other delegations, mindful of the absence of any substantive progress and noting that it would not be possible to attain consensus at that moment in time, observed that a pause in the negotiations might be desirable. Such an approach would allow delegations time to reflect on the substance of the outstanding issues and on the possible way forward. While preference was also registered with regard to the third option, views were expressed that this would be detrimental to the process and might send a negative message to the international community. Several delegations observed that in deciding on the way forward, it was important not to send a message to the international community that could be interpreted as a lack of interest or political will to conclude work on the draft convention.

33. As a possible compromise, it was suggested that the Committee would note the lack of substantive progress and recommend that work continue in the context of a working group of the Sixth Committee during the sixty-ninth session of the General Assembly. In response to a question, it was clarified that the pause in negotiations would also include the second item on the Committee's agenda relating to the

convening of a high-level conference. While several delegations considered such an approach sensible in the light of the current impasse, some delegations stressed the need to include a consolidated text in the report of the Ad Hoc Committee to ensure that the progress already achieved was preserved. That would also serve to facilitate future work on the draft comprehensive convention. Some delegations were of the view that if the Committee decided to establish a consolidated text, such a text should include all the various proposals on the table. Some other delegations considered a new consolidated text redundant; the status of the negotiations would be sufficiently reflected in the report of the Ad Hoc Committee of the current session, together with the 2010 report of the Working Group of the Sixth Committee, which contained, in its annexes, all relevant proposals (A/C.6/65/L.10). It was nevertheless pointed out that those documents did not contain the text of the accompanying draft resolution, which was a part of the Coordinator's overall compromise package and which should be reflected.

34. At the 50th meeting, there was an exchange of views on the placement of the text of the accompanying draft resolution that was proposed by the Coordinator in 2011 (A/C.6/66/SR.28, para. 89) and endorsed by the Bureau for inclusion in the present report as a proposal of the Bureau for further discussion. The accompanying draft resolution reads as follows:

Accompanying draft resolution[a]

The General Assembly,

Recalling its resolution 49/60 of 9 December 1994, by which it adopted the Declaration on Measures to Eliminate International Terrorism, and resolutions 51/210 of 17 December 1996 and 53/108 of 8 December 1998,

Recalling also the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, annexed to General Assembly resolution 2625 (XXV) of 24 October 1970,

Reaffirming the duty of every State to refrain from organizing, instigating, assisting or participating in acts of civil strife or terrorist acts in another State or acquiescing in organized activities within its territory directed towards the commission of such acts, when these acts involve a threat or use of force, and noting that it constitutes an obligation under customary international law,

Reaffirming, in the context of combating international terrorism, the importance of maintaining the integrity of international humanitarian law,

Reaffirming also that States must ensure that any measure taken to combat terrorism complies with all their obligations under international law and must adopt such measures in accordance with international law, in particular international human rights, refugee and humanitarian law,

Having considered the text of the draft United Nations Convention for the Prevention and Suppression of International Terrorism prepared by the Ad

[a] With the exception of a change to the title of the draft convention, this text represents the text of the accompanying draft resolution proposed by the Coordinator in 2011 (A/C.6/66/SR.28, para. 89) for discussion.

Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996 and the Working Group of the Sixth Committee,

1. *Adopts* the United Nations Convention for the Prevention and Suppression of International Terrorism annexed to the present resolution, and requests the Secretary-General to open it for signature at United Nations Headquarters in New York from ... to ...;

2. *Urges* all States to sign and ratify, accept, approve or accede to the Convention;

3. *Decides* that the question of convening a high-level conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations shall continue to be discussed in the context of the agenda item on measures to eliminate international terrorism.

35. The view was expressed by some delegations that the consideration of the accompanying draft resolution was premature and should not take place prior to an agreement on the text of the draft convention. In their view, the outstanding issues surrounding the draft convention were of a legally substantive nature that could not be resolved through an accompanying draft resolution.

C. Question of convening a high-level conference

36. The question of convening a high-level conference was discussed during the 49th meeting of the Ad Hoc Committee and the informal consultations on 9 April.

37. During the informal consultations, the sponsor delegation of Egypt recalled that a proposal to convene an international conference, under the auspices of the United Nations, to formulate a joint organized response of the international community to terrorism in all its forms and manifestations had first been made in 1999. Despite all the efforts made at the national, regional and international levels, there was still a dire need to set up an action plan within the United Nations, containing both legal and procedural aspects, which would guarantee active international cooperation to achieve the common aspiration of eliminating terrorism. According to the sponsor delegation, the proposed conference could facilitate negotiations and mobilize the political will necessary to reach agreement on the draft comprehensive convention. The high-level conference would also offer an opportunity to adopt an action plan and provide a forum to address all issues related to the fight against terrorism, including the conditions conducive to its spread and a discussion on the definition of terrorism, as well as the outstanding issues relating to the draft comprehensive convention. It was recalled that the proposal had been supported by the Non-Aligned Movement, the Organization of Islamic Cooperation, the African Union and the League of Arab States. It was stressed that the issue should be discussed on its own merits and should not be linked to the discussions on the draft comprehensive convention.

38. Some delegations expressed support for the proposal, agreeing with the sentiments of the sponsor delegation, in particular that it should be considered without any linkage to the ongoing discussions on the draft comprehensive convention. It was noted that the current working methods had not yielded the desired results, and that the high-level political discourse of such a conference could

have a catalytic impact on the discussion on outstanding issues and could serve as a way to address the challenges handicapping global counter-terrorism efforts. It was also noted that such a conference could provide an opportunity to overcome the impasse in deliberations on the draft comprehensive convention, to arrive at a definition of terrorism and to address the root causes of terrorism.

39. Other delegations reiterated their previous positions on the matter. While not necessarily opposed to it in principle, it was felt that the question of convening a high-level conference should be considered after completion of the negotiations on the draft comprehensive convention. The view was also expressed that a conference at this stage would be premature.

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